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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,163	08/17/2001	William Ellis Leslie	RSW920010164US1	4683

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EXAMINER	
CASLER, TRACI	
ART UNIT	**PAPER NUMBER**
3629	

MAIL DATE	DELIVERY MODE
04/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/932,163	Applicant(s) LESLIE ET AL.	
	Examiner Traci L. Casler	Art Unit 3629	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 02/28/2007.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

This action is in response to papers filed on February 28, 2007.

Claims 1-2, 12-16, 30 and 34-48 are pending.

Claims 1-2, 12-16, 30 and 34-48 are rejected.

Response to Arguments

1. Applicant's arguments filed February 28, 2007 have been fully considered but they are not persuasive.

2. As to applicants arguments regarding the 112 1st Rejections of claims 1-2, 12-16, 30 and 34-36 regarding enablement, applicants arguments are not persuasive.

3. Applicant argues Pg. 1 l. 5-16 "enables" the deducing the value of a variable by processing content logs". Examiner notes that in order to "deduce a value of a variable" an occurrence must be logged, that is implicitly relevant to the value. If one is determining a value using the log how can you log occurrences of relevant information when the value has yet to be determined. Furthermore, even if claims are re-written for clarification how is one to know what is "implicity" relevant. Examiner believes one of ordinary skill in the art isn't not going to know what is "understood" as relevant in order to log the event according to a specific personality trait or style. Therefore, without know how to log the events or what events to log the user will also know what information is used to determine the deduced value of a variable. The examiner notes the same response would be applied to applicants arguments lat pages 9, 6-7 l. 6-16 and 13-13 respectively also do not enable one to know what is used in the deducing of a variable based on logging occurrences.

4. As to applicants statements regarding the teachings of "majority-vote" of an algorithm. The examiner notes again the majority vote is done using the logged occurrences. The occurrences are again implicit or "understood" one of ordinary skill would not know how to log the events used in the majority vote-algorithm according to the "implicitly relevant" guidelines. How does one know that an event is extroversion vs. introversion. What type of interaction must a users complete and to what extent do they complete it based on whether they are an extrovert or an introvert. Applicants point to sections regarding "topic dwelling" applicant fails to set forth how one distinguishes between a low topic and a high topic dwelling. What is the conversion point from being an introvert to an extrovert.

5. As to applicants statements regarding the new matter the applicant draws the examiners attention to pg. 8 l. 19-Pg 9 l. 5 which describes steps 210-230 of Fig. 2. The applicant notes the figure inherently teaches a second session. Examiner notes that if one reviews Fig. 2 there is no indication that the program loops back up to 200 in which applicant claims user opens a second session. Examiner notes a computing of the indicator is done when current session is still active, the only loop occurring in the session is at 260 in which the system review whether session is still open, if the session is not still open the system ends and does not teach the option of a second session. Further more, applicant argues that it is inherent that the session would start over, if this would the case and applicant is admitting inherency then this is not a novel feature of the application. "To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the

reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)

6. The examiner further notes that applicant asserts that the "value is inserted at 130 however is not determined until 250, so the examiner begs the question...How would a second session then start if the value has yet to be determined according to the way the applicants maintains the "second session" proceeds.

7. The following is in response to the applicants arguments regarding the 102(b) rejection of claims 1 and 37.

8. As to applicants arguments that Breese fails to teach "logging occurrences that are implicitly relevant....". The examiner is unclear as to what specifically the applicant is arguing what is not taught by the prior art. The examiner will address the arguments as best interpreted.

9. It is believed that applicant is arguing the logging of occurrences is not based on users interaction with the internet. However, the examiner notes again that "logging" is a broad term and is merely read as a record of something. Therefore inputting a users behaviors as a event characteristic of a ones personality. Furthermore, applicant sates that Breese "describes receiving inputs form the user interface". If an input is received it is logged somewhere. As to applicants arguments that Breese does not teach the user visiting an internet website Breese teaches the connections with the personal computer

via the internet which one skilled in the art would know this to mean a connection of services such as email and world wide web.

10. The examiner notes that through applicants own admission they indicate that a "logging" actually occurs in Breese(Pg. 21 l. 1-2). The applicant argues that expressions are the only thing logged. Examiner fails to see how an expression is not an event relevant to deducing a personality type. Furthermore, examiner notes as state previously Breese is directed to inputs "representing observations of the users behavior". Pg 20 ¶ 2 of applicants response). Again, the examiner does not see a distinction between implicitly relevant events and behaviors as applicant has set forth a specific teaching or criteria for what types or kinds of events are implicitly revelant.

11. The applicant further indicates that Breese fails to recording the logged events. The applicant is again directed Fig. 5 A & B in which these drawings clearly indicate a database and/or spreadsheet of the behaviors observed.

12. Applicant argues a value is not being deduced by Breese. As applicant does not claim a specific type of value. The probability calculation that is determined by Breese teaches the deducing of a value. Breese uses the behavior responses to determine a probability of a how a model style will be perceived(C. 11 l. 5-9). and uses that probability to match the user with the appropriate agent model(C. 12 l. 63-67).

13. As to applicants arguments regarding claims 2, 11-16 and 30 which depend from 1 and 34-45 which depend from 37 applicants arguments are not persuasive.

14. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically

pointing out how the language of the claims patentably distinguishes them from the references.

15. Applicants arguments merely state the claimed limitations then the sections as sited by the examiner in the prior art. The applicant fails to set forth how the limitations distinguish themselves and are patentably distinct from the sited sections of the prior art.

16. As to applicants arguments regarding claims 34-36 and 46-48 and the 103(a) rejections. Applicant argues claims are not taught inview of the independent claims not being anticipated. Again, applicants arguments regarding the anticipation rejection were not persuasive therefore applicants arguments against the obviousness rejections are also not persuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TLC